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South Carolina

Division of General Services

# PROCUREMENT AUDIT AND CERTIFICATION

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HEALTH AND HUMAN SERVICES  
FINANCE COMMISSION

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AGENCY

SEPTEMBER 13, 1984

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September 13, 1984

Mr. Tony Ellis  
Division of General Services  
300 Gervais Street  
Columbia, South Carolina 29201

Dear Tony:

Attached is the interim Health and Human Services Finance Commission audit report and recommendations made by the Office of Audit and Certification. I have reviewed this report and the recommendations made by the Audit and Certification staff and concur with their findings. I, therefore, recommend that the temporary certification for Social Services Block Grant contracts up to \$750,000 per contract provided to the Department of Social Services be extended to the Health and Human Services Finance Commission (HHSFC) for a period of eight months or until a comprehensive audit by the Audit and Certification Office can be performed. I further recommend that the temporary certification include Federal Title XV funds and State appropriations for State health planning at a certification limit of \$750,000 per contract.

This temporary certification recommendation is being submitted with the understanding that a comprehensive audit of HHSFC will be conducted and a permanent certification will be considered. It must also be understood that this temporary certification is recommended to provide for service continuity in view of the recent reorganization of the Department of Social Services and HHSFC.

Sincerely,

Richard J. Campbell  
Materials Management Officer

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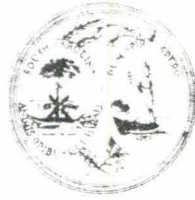
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July 2, 1984

Mr. Richard J. Campbell  
Materials Management Officer  
Columbia, South Carolina 29201

We have examined the proposed procurement policies and procedures of the Health and Human Services Finance Commission for fiscal year 1984-85. As a part of our examination, we made a study and evaluation of the system of internal control over the procurement of service provider contracts to the extent we considered necessary.

The purpose of such evaluation was to establish a basis for reliance upon the system of internal control to assure adherence to the Consolidated Procurement Code and State and Commission procurement policy. Additionally, the evaluation was used in determining the nature, timing and extent of other auditing procedures that were necessary for developing an opinion on the adequacy, efficiency and effectiveness of the procurement system.

The administration of the Health and Human Services Finance Commission is responsible for establishing and maintaining a system of internal control over procurement transactions. In fulfilling this responsibility, estimates and judgements by management are required to assess the expected benefits and



related costs of control procedures. The objectives of a system are to provide management with reasonable, but not absolute, assurance of the integrity of the procurement process, that affected assets are safeguarded against loss from unauthorized use or disposition, and that transactions are executed in accordance with management's authorization and are recorded properly.

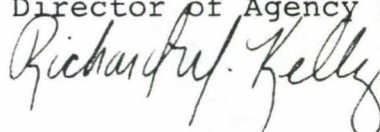
Because of inherent limitations in any system of internal control, errors or irregularities may occur and not be detected. Also, projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions, or that the degree of compliance with the procedures may deteriorate.

Our study and evaluation of the system of internal control over procurement transactions as well as our overall examination of procurement policies and procedures were conducted with due professional care. They would not, however, because of the nature of audit testing, necessarily disclose all weaknesses in the system.

The examination did, however, disclose conditions enumerated in this report which we believe to be subject to correction or improvement.

Corrective action based on the recommendations described in these findings will in all material respects place the Health and Human Services Finance Commission in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

Richard W. Kelly  
Director of Agency Services



## RESULTS OF EXAMINATION

The Audit and Certification Section performed an examination of the internal procurement operating procedures and policies and related manual of the Health and Human Services Finance Commission (HHSFC) for the period of fiscal year 1983/84.

Our on-site review was conducted May 23 through June 11, 1984, and was made under the authority as described in Section 11-35-1230(1) of the South Carolina Consolidated Procurement Code.

The Audit was instituted because HHSFC is a newly created state agency that drew many of its programs and most of its staff, particularly the Contracts Division, from the Department of Social Services (DSS). The Contracts Division, while at DSS was temporarily certified by the South Carolina Budget and Control Board to contract for the use of Social Service Block Grant funds up to \$750,000.

With the passage of Title 44, Chapter 6 and the repeal of Title 44, Chapter 5, Code of Laws of South Carolina, 1976, HHSFC assumed authority for administration of Social Service Block Grant funds and Title XIX (medicaid) funds. Since authority over these funds changed hands we were asked to perform an audit of the commission to determine if transfer of the temporary certification for Title XX funds from DSS to HHSFC is appropriate.

Further, HHSFC requested that expenditures of Title XIX funds be exempted from the Procurement Code.

Since our last audit of these programs at DSS, the Contracts Division has maintained a professional procurement system. We did note however, the below listed items that should be addressed by management.

I. Social Services Block Grants

Title XX of the Social Security Act was established by Congress in 1975 as a primary source of funding for state social services programs. In August, 1981, Congress passed Public Law 97-35 which amended Title XX to create the Social Services Block Grants. The new legislation transferred primary responsibility for the program to the states and eliminated many of the restrictive requirements of the original legislation. It gave the states flexibility, within broad federal guidelines, to develop and administer social service programs reflective of state priorities and concerns.

In June, 1983, with the passage of Title 44, Chapter 6, Code of Laws of South Carolina, 1976, the Health and Human Services Finance Commission was created and designated as the administering agency for Social Service Block Grant funds. As such, they are responsible for planning and administering the Title XX Block Grant program.

The HHSFC, under Federal authority, procures services for qualified applicants with federal Social Service Block Grant funds. In the performance of this task HHSFC solicits and awards



contracts with qualified providers in the following service lines:

1. Child Development Services
2. Adoption Services
3. Children, Youth and Family Counseling
4. Community Counseling for Adults
5. Day Care for Adults
6. Developmental Services for Handicapped and Disable Children
7. Home Delivered and Congregate Meals
8. Homemaker Services
9. Protective Services for Children
10. Social Support for Adults
11. Socialization and Development of Children
12. Services for Unmarried Mothers
13. Transportation
14. Residential Treatment for Children
15. Handicapped and Disabled Adults
16. Family Management Counseling

The commission feels that their primary goal is the provision of quality service to recipients of these programs. Consequently, the request for proposal (RFP) procurement method was chosen for use in soliciting these services.

The procurement method is authorized by Section 11-35-1530 of the Consolidated Procurement Code.

We found that generally the commission is conducting these solicitations in a professional manner in compliance with the Procurement Code. However, we did note the following requirements that have not been met:

1. There has been no determination prepared justifying the use of the request for proposal solicitation method, as required by Section 11-35-1530(1) of the Code.
2. The requests for proposals state the award criteria but they do not clearly indicate the relative importance of each criteria, as required by Section 11-35-1530(5) of



the Code. This matter was discussed with HHSFC Administration and they have already mailed an addendum to all potential providers for requests for proposals in process.

3. Awards were made to the responsive offeror whose proposal was the most advantageous to the State, but this was not determined in writing on each award, as required by Section 11-35-1530(7) of the Code.
4. Mailing lists of potential providers have been developed from current and past providers, referrals from other agencies, new inquiries and public advertisements. However, the lists appear to be inadequate based on the following requirements of the Consolidated Procurement Code:

Regulation Section 19-445.2095, Subsection A, states in part: "The provisions of Regulation 19-445.2035 and Regulation 19-445.2040 shall apply ..." Regulation 19-445.2035, referenced here, required that, when soliciting for contracts of \$10,000 or more, which most of these are, a minimum of ten (10) qualified sources must be solicited. Further, this section required that, "If a minimum number of qualified bidders required under this Regulation cannot be solicited, the appropriate Chief Procurement Officer or the head of a governmental body shall certify in writing that all known sources were solicited."

We recommend HHSFC take the appropriate steps to effect compliance with the above sections of the Consolidated Procurement Code which address the use of requests for proposals. Further, we urge that a strong effort be made to expand the mailing lists of potential providers, through advertisement and inquiries to all known potential providers statewide. Where

licensing agencies exist the commission should obtain lists of all licensed providers and inquiries should be mailed to them informing them of forthcoming solicitations.

If the above is done one time, and inquiries are mailed to all new licensed providers each year, the commission could not be questioned on its efforts to seek competition among service providers.

## II. Title XIX (Medicaid) Procurement Standards

In our last audit of DSS we had the following finding covering Title XIX (Medicaid) procurement standards:

Our examination of the standard medicaid nursing home contract due to be signed for the period beginning 10/1/82 revealed that SCDSS was not aware that federal procurement standards as defined in attachment "O" of OMB circular A-110 apply to the non-profit providers of these services.

This requirement is set forth in CFR 42, Part 430.0(2), and CFR 45, Part 74.161.

These procurement standards applicable to non-profit providers establish major procurement guidelines as follows:

- (1) A code of ethics.
- (2) Procurement procedures that avoid purchasing unnecessary or duplicative items.
- (3) Unrestrictive specifications when soliciting goods and services.



- (4) Responsibility of contractors with whom business is conducted.
- (5) Sole source procurements in excess of \$5,000 are subject to prior approval by SCDSS.
- (6) Price and cost analysis.
- (7) Documentation and justification of procurements in excess of \$10,000.

Due possibly to a lack of SCDSS administrative oversight, the necessary procurement controls as outlined in the Department of Health and Human Services' Administration of Grants Manual were not implemented.

As a result, effective procedures for cost containment and compliance in the procurement process at the provider level were not enforced, either contractually or in the audit effort.

We, therefore, recommend that the Office of Health Care Financing, after careful study and planning, notify all non-profit providers of service of the procurement standards defined in Attachment "O", OMB Circular A-110, clearly indicating that these are the rules that apply in the purchase by these providers of goods and services (which include consultant contracts).

Also, we recommend the SCDSS board consider making these standards applicable to all non-public providers, whether profit or non-profit.

Additionally, we suggest that SCDSS in conjunction with the Health Care Planning and Oversight Committee study the possibility of contractually establishing the competitive

policies and procedures set forth in Article 5 and 9 of the Consolidated Procurement Code as applicable to all non-state providers of Medicaid Services.

DSS gave the following response to this audit recommendation:

The Office of Health Care Financing will review the applicability of OMB Circular A-110 to all non-profit providers of services. After this review, notification will be forwarded to providers, including profit providers when appropriate, in order to clarify these rules. We further agree that DSS, with the appropriate outside entities, should study the possibility of contractually establishing the competitive policies and procedures set forth in Articles 5 and 9 of the Consolidated Procurement Code as applicable to all non-state providers of Medicaid services.

We reviewed the Title XIX contracts for nursing home services that are currently in effect and could find no evidence that this audit recommendation has been implemented. Based on this review, we repeat the audit point here.

The only change to our recommendation is that HHSFC which now has authority over these services should ensure that these items are addressed.

### III. Title XIX (Medicaid) Exemption for the Procurement of Service Provider Contracts

HHSFC is authorized to administer Title XIX (Medicaid) of the Social Security Act in the state of South Carolina. Under this authority they contract with service providers for the provision of medical and health related services to qualified medicaid recipients.



As noted at the beginning of this report, HHSFC requested that Title XIX contracts be exempted from the Procurement Code because Federal Regulations prohibit them from denying a contract or participation in the medicaid program to anyone who meets the prerequisites.

The Audit and Certification Section researched this issue and found that this exemption request is supported by Title 42, Chapter IV, Section 431.51 of the Code of Federal Regulations, which states in part:

...any (Medicaid) recipient may obtain Medicaid services from any institution, agency, pharmacy, person, or organization that is qualified to perform the services, including an organization that provides these services or arranges for their availability on a prepayment basis.

In all of the Title XIX service areas that we reviewed, the providers are paid for services rendered on an established fee basis so price competition is not available. Further, the program is monitored by HHSFC and the Department of Social Services, audited by the State Auditor, and covered by extensive federal regulations.

In our opinion, this exemption appears warranted. However, we are not prepared to recommend exemption for Title XIX contracts at this time for the following reasons:

1. We performed only an interim review of contracting policy and procedure. As noted in the certification recommendation section of this report, we intend to conduct a complete audit of HHSFC in the near future, at which time, we will examine this issue fully.

2. Section 431.54(d) of Title 42, Chapter IV of the Code of Federal Regulations, allows that, if properly approved, "The Medicaid agency may enter into arrangements to purchase medical devices or laboratory and X-ray tests... through a competitive bidding process...."

To our knowledge this option has not been explored fully by HHSFC.

3. As noted in II above, HHSFC has not implemented our previous recommendation that Attachment "O", OMB Circular A-110, which sets procurement standards for the use of federal funds, should be applied to non-profit providers of service. Further, we are not satisfied that consideration has been given to the concepts of applying these standards to all non-public providers, whether profit or non-profit and of contractually establishing the competitive policies and procedures set forth in Article 5 and 9 of the Consolidated Procurement Code to all non-state providers of Medicaid Services.

4. Finally, in a meeting on May 5, 1983, between DSS and the Contracts and Audit Management Section of the Division of General Services, it was agreed that a continuous effort would be exerted to procure these services in a manner that would be the greatest benefit to the State. To this end, DSS was encouraged to meet and discuss these matters



with other health care agencies (Department of Health and Environmental Control, Vocational Rehabilitation, etc.) and our Materials Management Office to arrange mutually agreeable long term solutions.

To our knowledge this has not been pursued by HHSFC, who now have authority over Title XIX funds.

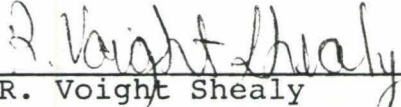
Until these steps are completed, we recommend HHSFC continue to procure service provider contracts in accordance with applicable federal guidelines, which, in this case, are adequate in our opinion. If these guidelines are followed, we will consider this meeting the competitive aspects of the Procurement Code. When we perform a complete audit of HHSFC, scheduled during the early part of 1985, we will determine if an exemption is justified.

## CERTIFICATION RECOMMENDATIONS

As enumerated in our transmittal letter corrective action based on our recommendations described in the findings contained in the body of this report, we believe, will in all material respects place HHSFC in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations covering solicitation of Social Service Block Grant funds and Title XIX (Medicaid) funds.

Under the authority described in Section 11-35-1210 of the Procurement Code, subject to this corrective action we recommend the temporary certification for Social Service Block Grant contracts up to \$750,000 provided DSS be extended to HHSFC for eight months or until a comprehensive audit by this section can be performed. Additionally, we recommend that this temporary certification include Federal Title XV funds and state appropriations for state health planning.

We recommend that certification remain temporary because time constraints resulting from the need to continue service to recipients limited the scope of our audit. We have scheduled a comprehensive audit of HHSFC for March, 1985. At that time we will determine if permanent certification is warranted.

  
\_\_\_\_\_  
R. Voight Shealy  
Director, Audit and Certification



# State of South Carolina

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*P. O. Box 8206, Columbia, South Carolina 29202-8206*

August 24, 1984

Mr. Richard W. Kelly  
Director of Agency Services  
Division of General Services  
Budget and Control Board  
300 Gervais Street  
Columbia, South Carolina 29201

Dear Mr. Kelly:

The State Health and Human Services Finance Commission has reviewed the draft audit and certification report prepared by the Audit and Certification Section. As was discussed in the subsequent exit conference, our agency is in basic agreement with the report and its recommendations. However, we do request that the temporary certification recommendation be modified to include state funds and Title XV funds as well as the Social Services Block Grant funds.

The agency feels that the recommended corrective action can be accomplished. In regards to the Social Services Block Grant corrective action indicated on pages 5 and 6 of the report, we will comply as follows:

1. A determination justifying the use of the request for proposals as opposed to the use of competitive sealed bidding.
2. The Child Development RFP was amended, by addendum, to include a statement to the effect that award criteria "A" was weighted more heavily than "B", "B" more heavily than "C", etc. The statement was included in the other RFP's as they were developed.
3. We will maintain sufficient documentation to satisfy the requirements of Section 11-35-1530(7) of the Code. We may request a further review of our files in the regard to assure that we have not omitted any necessary information.
4. We will mail notices next year to all known licensed providers informing them of future RFP's. We'll continue notices on an annual basis to only the newly licensed providers since the last mailing.

Mr. Richard W. Kelly  
August 24, 1984  
Page 2

In regards to the audit concerning Medicaid (Title XIX), it seems appropriate to follow your recommendation regarding the standards of A-110. This will be reviewed and analyzed for further action as necessary during or before the comprehensive audit scheduled for March, 1985.

If further information is needed, please advise me. Thank you for your continued cooperation.

Sincerely,



Thomas K. Barnes, Jr.  
Deputy Director  
Office of Administrative Services

TKBjr/g



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